

Appl. No. 10/615,638
Amendment dated November 10, 2005
Reply to Office action of October 31, 2005

REMARKS

This Amendment and Response to Office Action is responsive to an Office action dated October 31, 2005 setting forth a shortened statutory period for reply expiring on January 31, 2005. *A Petition to Make Special based on Applicant's Health has been granted for this application.*

In brief review, claims 1-8 were pending in the application with claims 1 and 6 being independent claims. The Examiner rejected claims 1-5 as indefinite, and rejected claims 1-5 and 6-8 as anticipated in view of newly cited prior art.

An Interview with the Examiner, the Applicant and the undersigned was held on November 7, 2005 where these rejections were discussed.

By this Amendment, claims 1, 2, 3 and 6 have been amended. The specification has also been amended to conform the specification to the drawings with the addition of any new matter. Reconsideration of the application and claims is respectfully requested.

AMENDMENTS TO THE SPECIFICATION

The specification has been amended to conform it to the drawings. Specifically, at page 15, line 25, the sentence has been added: "As shown in the example of Figs. 2, 6 and 7, the recess 104 of the second support member 62 may be larger than the recess 94 of the first support member 60." Support for this amendment to the specification is provided in the application as originally filed, for instance in Figs. 2, Figs. 6-7 (showing recess 104 of second support member 62 as larger than recess 94 of first support member 60), as well as in Figs. 8-9, Figs. 10-11 and Figs. 22-25.

Also, at page 17, line 2 the sentence has been added: "(i.e., two recesses 94 on first support member 60 in Fig. 8, and two recesses 104 on second support member 62 in Fig. 9). As shown in the example of Figs. 8-9, the recesses 94 of the first support member 60 may be smaller than the recesses 104 of the second support member 62." Support for this amendment to the specification is provided in the application as originally filed, for instance in Figs. 2, Figs. 8-9 (showing recess 94 of first support member 60 as smaller than recess 104 of the second support member 62), as well as in Figs. 10-11 and Figs. 22-25.

No new matter has been added by these amendments to the specification. Entry of these amendments is respectfully requested.

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RESPONSE TO INDEFINITENESS REJECTION

Claims 1-5 were rejected as indefinite under 35 U.S.C. 112, second paragraph, for use of the phrase in claim 1 of "the first and second support members supporting the wine bottle in a substantially parallel relation to the wall."

During the November 7 Interview, the Applicant asserted that this claim language is not indefinite, and the Examiner suggested that this phrase be reworded to recite "the first and second support members supporting being configured to support the wine bottle in a substantially parallel relation to the wall." Accordingly, claim 1 has been so amended. This amendment is not a narrowing amendment as it merely re-words this phrase. It is respectfully requested that the indefiniteness rejection be withdrawn.

RESPONSE TO REJECTIONS UNDER 35 U.S.C. 102

The Examiner rejected claims 1-5 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 4,109,795 to Konigsford et al. entitled "Display Rack and Assembly of Articles on the Rack" (hereinafter the Konigsford patent). The Examiner also rejected claims 6-8 as anticipated by U.S. Patent No. 5,597,150 to Stein et al. entitled "Pilfer-Resistant Peg Hook Assembly" (hereinafter the Stein patent).

Claims 1-5

In support of the anticipation rejection of claims 1-5 by the Konigsford patent, the Examiner states: "Note Figure 1, support elements 6 and recesses 16" (Office Action at p. 2). As shown in Fig. 1 of Konigsford, the two recesses 16 shown on each of the support elements 6, 6 of the Konigsford patent are believed to be of the same size. In contrast, the recesses of the first and second support members of one embodiment of the present invention are of different sizes, for instance as shown in Figs. 6-7 wherein support member 62 (Fig. 7) has a recess 104 which is larger than recess 94 (Fig. 6) of support member 60.

Claim 1 as amended recites, in part, a "wine rack" comprising a "first support member having a recess portion for supporting a first portion of a wine bottle" and a "second support member having a recess portion for supporting a second portion of the wine bottle . . . the recess portion of the second support member being larger than the recess portion of the first support member." The Konigsford reference is not believed to disclose these limitations. Moreover, claim 1 is allowable because the Konigsford patent does not disclose a "wine rack" or that "the first and second support members" are

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"configured to support the wine bottle in a substantially parallel relation to the wall" as recited in claim 1. For at least these reasons, claim 1 is believed to be allowable over the Konigsford patent.

Because dependant claims 2-5 depend from and further limit independent claim 1, dependant claims 2-5 are also believed to be allowable. Claim 2 is also allowable because the Konigsford patent does not disclose, as recited in claim 2, "the first support member further comprises a second recess portion for supporting a first portion of a second wine bottle; and the second support member further comprises a second recess portion for supporting a second portion of a second wine bottle."

Claim 3, which depends from claim 2, is also allowable because the Konigsford patent does not disclose, as recited in claim 3, "the first support member further comprises a third recess portion for supporting a first portion of a third wine bottle; and the second support member further comprises a third recess portion for supporting a second portion of a third wine bottle."

For at least these reasons, claims 1-5 are believed to be allowable.

Claims 6-8

In support of the anticipation rejection of claims 6-8 by the Stein patent, the Examiner states: "See Figure 1 and the two recesses on the support elements" (Office Action at p. 2). As shown in Fig. 1 of Stein, the two recesses shown on each support elements are believed to be of the same size. In contrast, the recesses of the first and second support members of one embodiment of the present invention are of different sizes, for instance as shown in Figs. 6-7 wherein support member 62 (Fig. 7) has a recess 104 which is larger than recess 94 (Fig. 6) of support member 60.

Independent claim 6 as amended recites, in part, a "wine rack" comprising "a first pair of support members including a first and a second support member configured to support at least a first and a second wine bottle in a first horizontal row and in a substantially parallel relation to the wall surface, the first support member having a first recess for supporting a portion of the first wine bottle and a second recess for supporting a portion of the second wine bottle, the second support member having a first recess for supporting a portion of the first wine bottle and a second recess for supporting a portion of the second wine bottle, wherein the first recess of the first support member is smaller than the first recess of the second support member, wherein the second recess of the first support member is smaller than the second recess of the second support member." The Stein reference is not believed to disclose these limitations.

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Moreover, claim 6 is allowable because the Stein patent does not disclose other limitations recited in claim 6, such as a "wine rack", does not disclose "wherein the label of the first wine bottle is visible to a person standing in front of the wine rack", and does not disclose "a second pair of support members including a third and a fourth support member configured to support at least a third and a fourth wine bottle in a second horizontal row and in a substantially parallel relation to the wall surface." For at least these reasons, claim 6 is believed to be allowable over the Stein patent.

Because dependant claims 7-8 depend from and further limit independent claim 6, dependant claims 7-8 are also believed to be allowable.

For at least these reasons, claims 6-8 are believed to be allowable.

CONCLUSION

In light of the above, the pending claims 1-5 and 6-8 are believed to be allowable, and a Notice of Allowance is respectfully requested.

The Applicant believes no further fees or petitions are required with this Amendment. However, if any petitions or fees are necessary, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

If the Examiner should require any additional information regarding this Amendment, please contact the undersigned attorney.

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Respectfully submitted,


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